

1 Juanita Brooks (SBN 75934)
2 FISH & RICHARDSON P.C.
3 12390 El Camino Real
4 San Diego, California 92130-2081
5 Telephone: (858) 678-5070
6 Facsimile: (858) 678-5099

7 Attorneys for Plaintiffs/Declaratory Judgment Defendants
8 UNITHER PHARMA, INC., THE BOARD OF TRUSTEES
9 OF THE LELAND STANFORD JUNIOR UNIVERSITY,
10 and NEW YORK MEDICAL COLLEGE

11 Daniel J. Bergeson (SBN 105439)
12 Hway-Ling Hsu (SBN 196178)
13 BERGESON, LLP
14 303 Almaden Boulevard, Suite 500
15 San Jose, California 95110-2712
16 Telephone: (408) 291-6200
17 Facsimile: (408) 297-6000

18 Attorneys for Defendant/Declaratory Judgment Plaintiff
19 HERBALIFE INTERNATIONAL, INC.

20 ADDITIONAL COUNSEL LISTED ON SIGNATURE PAGE

21 UNITED STATES DISTRICT COURT
22 NORTHERN DISTRICT OF CALIFORNIA
23 SAN JOSE DIVISION

24 UNITHER PHARMA, INC. and
25 THE BOARD OF TRUSTEES OF THE
26 LELAND STANFORD JUNIOR UNIVERSITY,

Plaintiffs and Counter-Defendants,

v.

27 HERBALIFE INTERNATIONAL, INC.,

Defendant and Counter-Claimant.

28 HERBALIFE INTERNATIONAL, INC.

Plaintiff and Counter-Defendant,

v.

UNITHER PHARMA, INC., THE BOARD OF
TRUSTEES OF THE LELAND STANFORD
JUNIOR UNIVERSITY, and NEW YORK
MEDICAL COLLEGE,

Defendants and Counter-Claimants.

Case Nos. C 03-5090 JW and C 03-5878 JW

**STIPULATION OF DISMISSAL WITH
PREJUDICE AND [PROPOSED] ORDER**

1 It is hereby stipulated that related Civil Action Nos. C03-5090 JW and C03-5878 JW
2 between Unither Pharma, Inc. ("Unither Pharma"), The Board of Trustees of the Leland Stanford
3 Junior University ("Stanford"), New York Medical College ("NYMC") (collectively, "Plaintiffs")
4 and Herbalife International Inc. ("Herbalife"), including all claims and counterclaims filed therein,
5 are hereby dismissed pursuant to Fed. R. Civ. P. 41 (a) and 41(c).

6 This dismissal is with prejudice, except that Herbalife shall retain the right to challenge the
7 validity and enforceability of the patents-in-suit in the event of any future litigation initiated by
8 any of the Plaintiffs or their successors or assigns against Herbalife, its manufacturers, distributors
9 or customers invoking the patents-in-suit, whether or not such future litigation concerns the same
10 or different accused products.

11 Dated: November 7, 2006

FISH & RICHARDSON P.C.

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By: /s/
Karen I. Boyd

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Karen I. Boyd (SBN 189808/boyd@fr.com)
John M. Farrell (SBN 99649/farrell@fr.com)
Limin Zheng (SBN 226875/zheng@fr.com)
Erin Dungan (SBN 227090/dungan@fr.com)
FISH & RICHARDSON P.C.
500 Arguello Street, Suite 500
Redwood City, CA 94063
Telephone: (650) 839-5070
Facsimile: (650) 839-5071

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Juanita Brooks (SBN 75934/brooks@fr.com)
FISH & RICHARDSON P.C.
12390 El Camino Real
San Diego, California 92130-2081
Telephone: (858) 678-5070
Facsimile: (858) 678-5099

Attorneys for Plaintiffs
UNITHER PHARMA, INC. AND THE
BOARD OF TRUSTEES OF THE LELAND
STANFORD JUNIOR UNIVERSITY

1 Dated: November 7, 2006

BERGESON LLP
FRIED, FRANK, HARRIS, SHRIVER &
JACOBSON LLP
JONES DAY

4

By: /s/

5 Stephen S. Rabinowitz

6

7

Daniel J. Bergeson (SBN 105439)
Hway-Ling Hsu (SBN 196178)
BERGESON, LLP
303 Almaden Boulevard, Suite 500
San Jose, California 95110-2712
Telephone: (408) 291-6200
Facsimile: (408) 297-6000

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13

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James W. Dabney (*pro hac vice*)
Stephen S. Rabinowitz
FRIED, FRANK, HARRIS, SHRIVER &
JACOBSON LLP
One New York Plaza
New York, New York 10004
Telephone: (212) 859-8000
Facsimile: (212) 859-4000

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17

18

19

Laura A. Coruzzi (*pro hac vice*)
JONES DAY
222 East 41st Street
New York, New York 10017
Telephone: (212) 326-3939
Facsimile: (212) 755-7306

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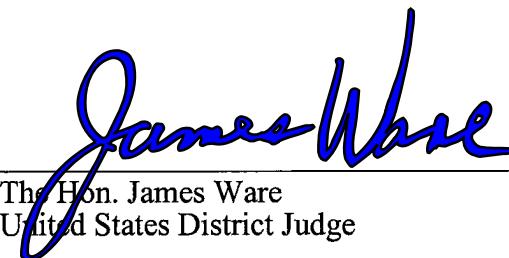
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1 IT IS SO ORDERED.
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4 DATED: 11/08/2006
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The Hon. James Ware
United States District Judge

DECLARATION OF CONSENT

I, Karen I. Boyd, hereby attest:

1. Concurrence in the filing of the following document has been obtained from each of the other signatories, which shall serve in lieu of their signatures on the document:

STIPULATION OF DISMISSAL WITH PREJUDICE AND [PROPOSED] ORDER

2. I shall maintain records to support this concurrence for subsequent production for the Court if so ordered or for inspection upon request by a party until one year after final resolution of the action pursuant to General Order 45 of the United States District Court for the Northern District of California.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct. Executed in Redwood City, California on November 7, 2006.

Dated: November 7, 2006

FISH & RICHARDSON P.C.

By: /s/
Karen I. Boyd

Attorneys for Plaintiffs
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TRUSTEES OF THE LELAND STANFORD
JUNIOR UNIVERSITY, and NEW YORK
MEDICAL COLLEGE

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